IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 8732 of 2006
Date of decision: May 25, 2007

Mahabir Singh ...Petitioner

Versus

The State Transport Commissioner, Punjab and another
...Respondents.

CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL
HON'BLE MR. JUSTICE AJAI LAMBA

Present: Mr. Rajinder Sharma, Advocate,
for the petitioner.

Mr. N.S.Virk, Additional Advocate General,
Punjab.

K.S.GAREWAL, J.

This petition has been filed by Mahabir Singh to challenge the order of the State Transport Commissioner dated October 29, 2004 and the order of the State Transport Appellate Tribunal dated February 1, 2006 whereby he was denied a permit on the Amritsar-Pathakot route.

State Transport Commissioner had published a notice in the Motor Transport Gazette (Weekly) on January 22, 2001, inviting applications for the grant of four permits to operate four return trips on the

Amritsar-Pathankot route. Later another notice was issued on September 8, 2003 inviting applications for grant of fourteen regular permits to operate fourteen return trips on the same route. In all 448 applications were received for grant of eighteen permits. The applicants were heard on August 11, 2004 in Jalandhar. Order was reserved and was subsequently pronounced on October 29, 2004. Four permits with return trips were granted to the Punjab Roadways, Pathankot. One permit with one return trip each was granted in favour of fourteen other applicants.

Appeals were filed under Section 89 of the Motor Vehicles Act before the State Transport Appellate Tribunal. The Tribunal came to the conclusion that a thorough and complete comparison and appreciation of the qualifications of various applicants was sine-qua-non. The State Transport Commissioner order was not a speaking order, as far as the grant to the 14 private operators was concerned. The order was set aside. However, the grant to Punjab Roadways was upheld.

According to the learned counsel for the petitioner, although Punjab Roadways (Pathankot) had been granted four permits with return trips but it did not collect these permits and consequently the sanction of the permits in favour of Punjab Roadways (Pathankot) stood revoked in terms of sub rules 5 and 6 of Rule 128 of the Punjab Motor Vehicles Rules 1989. The consequences of this was that four stage carriage permits with four return trips remained vacant. Since this Court in Amloh Bus Service (Regd.) Versus State Transport Commissioner, Civil Writ Petition 1402 of 2003 decided on May 24, 2003 held that the permits which had become vacant on account of Punjab Roadways not collecting them, the consideration for allotment of these vacant permits should only be confined

to the parties who contested the grant of permits in appeal. The vacant permits can not be granted by issuing fresh advertisement inviting applications de-novo. This was in accordance with the view of the Supreme Court of India in AIR 1966 Supreme Court 1366 Combum Roadways Pvt. Ltd. and others Versus Somu Transport Pvt. Ltd. and others.

In reply, the General Manager, Punjab Roadways, Pathankot stated that the roadways had been granted four permits with four return trips on the route in question but due to shortage of buses these permits could not be utilized. Punjab Roadways has now acquired 300 new buses and would be in a position to collect the permits.

In view of Rule 128 sub rules 5 and 6 of the Punjab Motor vehicles Rules, 1989 and the judgment of the Supreme Court in Combum Roadways and our High Court decision in Amloh Bus Service (supra), we are of the view that those vacant permits can only be granted to the parties who had challenged those permits in appeal. Operators who may now be interested but who had neither applied in the first instance nor challenged the grant in favour of Punjab Roadways in appeal before the Tribunal cannot be considered for the grant of the permits vacated by Punjab Roadways.

Therefore, this petition is allowed and the order of the State Transport Commissioner dated October 29, 2004 and the order of the State Transport Appellate Tribunal dated February 1, 2006 dismissing the petitioner's appeal is hereby set aside. Regional Transport Authority is directed to re-consider the grant of the four vacant permits vacated by the Punjab Roadways, Pathankot only to the parties who had filed appeals before the Tribunal, including the petitioner.

Disposed of in the above terms.

(K.S. GAREWAL)
JUDGE

May 25, 2007 **(AJAI LAMBA)**
prem **JUDGE**